



Issue Date: 01 August 2005

In the Matter of

BETTY A. DEVERS *et al.*
Complainants

v.

KAISER-HILL COMPANY
Respondent

Case No. 2001-SWD-00003

RECOMMENDED ORDER APPROVING SETTLEMENT

On June 10, 2003, I issued a *Recommended Decision and Order* in which I recommended that this case be dismissed on the ground that none of the complainants engaged in protected activity under any of the statutes under which this case was brought: the Energy Reorganization Act ("ERA"); Toxic Substances Control Act ("TSCA"); Solid Waste Disposal Act ("SWDA"); and Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"). On March 31, 2005, the Administrative Review Board ("ARB") remanded the case to me. The ARB held that I was correct in finding that no protected activity occurred under TSCA, SWDA and CERCLA, but found that the complainants did engage in activity protected by the ERA. On July 5, 2005, the parties filed a *Stipulated Motion to Dismiss With Prejudice*. It states that the parties have settled the case; each party will bear its own attorneys' fees; and the case should be dismissed with prejudice. It does not discuss the terms of the settlement agreement other than that the parties will bear their own attorneys' fees. On July 6, 2005, I informed the parties that I could not dismiss the case despite the settlement agreement since, under the ERA, the Secretary of Labor must agree to the terms of the settlement agreement (*see* 42 U.S.C §5851(b)(2)(A); 15 U.S.C. §2622(b)(2)(A)); accordingly, the complete settlement must be submitted to the administrative law judge. On July 29th, I received a *Renewed Stipulated Motion to Dismiss with Prejudice*. Accompanying this motion were six fully executed *General Release and Waiver* agreements, one for each complainant.

In most cases in which I am asked to approve settlements, I have not heard the cases and thus I have no idea of the relative strengths and weaknesses of the parties' cases; nor do I have any basis to determine whether the amounts the complainants are to receive under the settlement agreements are reasonable. I never feel comfortable approving a settlement agreement in such cases. I do not have that problem here. Having heard the case and reviewed all of the evidence in the record, I can state that each of the settlement agreements is reasonable, as is the amount of

the attorneys' fees. Therefore, ***IT IS ORDERED*** that the six settlement agreements are approved, and this case is dismissed with prejudice.

Finally, the parties have designated the settlement agreements to be confidential commercial information in accordance with 29 C.F.R. §70.26.

A

JEFFREY TURECK
Administrative Law Judge